

DAE

PC335.02:JBM:179149



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

MCKAY, William F.

Serial No. 09/923,117

Filed August 6, 2001

OSTEOGENIC PASTE COMPOSITIONS  
AND USES THEREOF

Before the Examiner  
NOT YET ASSIGNED

Group Art Unit  
3738

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 on

August 9, 2002

(Date of Deposit)

James B. Myers, Jr.

Name of Registered Representative

Signature

August 9, 2002

Date of Signature

**PETITION TO RESET A PERIOD FOR REPLY DUE TO LATE RECEIPT OF AN  
OFFICE ACTION UNDER 37 CFR §1.181**

Honorable Commissioner for Patents  
Washington, D.C. 20231

Sir:

In this petition, Applicants respectfully request the Commissioner to exercise his supervisory authority under 37 CFR §1.181 and reset the time period to respond to the Notice to File Missing Parts for the above-captioned application. Applicants request that any fee for this Petition be charged to Deposit Account No. 23-3030. Additionally, please provide any extensions of time that may be necessary and charge any additional fees or refund any overpayments to Deposit Account No. 23-3030 but do not include the payment of any issue fees that are or may become due.

**STATEMENT OF FACTS**

The undersigned declares and states as follows:

1. The above-captioned application was filed on August 6, 2001 and claimed priority to prior international application no. PCT/US00/03024, filed on February 4, 2000.
2. The above-captioned application was filed with an unsigned declaration.

Petition to Reset Time Period  
McKay, USSN 09/923,117  
PC335.02:JBM:179149

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3. The undersigned attorney received the return postcard from the US PTO on August 20, 2001, which indicated the application was assigned serial no. 09/923,117. However, no filing receipt was received from the US PTO. (See Exhibit A.)

4. The undersigned attorney submitted a Status Request for the above-captioned application on May 1, 2002. (See Exhibit B.)

5. Except for the return postcard attached to Exhibit B, no further communications for the above-captioned application were received from the US PTO at the correspondent's address or facsimile number until July 29, 2002.

6. The undersigned attorney received a copy of the Filing Receipt and a copy of the Notice to File Missing Parts via facsimile from the US PTO on July 29, 2002. The Notice to File Missing Parts included a date mailed of 09/13/2001 and gave the Applicant two months from that date within which to file the signed oath and pay the required fee. (See Exhibit C.)

7. The six-month maximum time period for responding to the Notice to File Missing Parts expired prior to the receipt of the Notice at the correspondent's address or facsimile number. The undersigned attorney has not received a Notice of Abandonment for the above-captioned application.

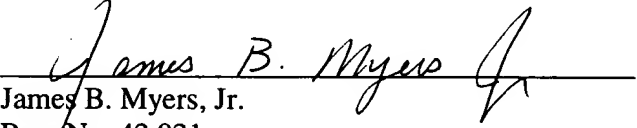
8. This petition is filed within two weeks of the date of actual receipt of the Notice to File Missing Parts at the correspondent's address or facsimile number.

9. The undersigned attorney respectfully requests that pursuant to his authority under 35 CFR §1.181 the Commissioner reset the time period for replying to the Notice to File Missing Parts. In the alternative, the undersigned specifically requests that the Commissioner withdraw the holding of abandonment of the above-captioned application, enter the signed Declaration, and allow the application to be examined.

10. The undersigned attorney files concurrent with this petition a copy of the Notice to File Missing Parts, a declaration signed the inventor of the above-captioned application, and the statutory fee set forth in 37 CFR 1.16(l). (See Exhibit D.)

11. I declare that all statements made herein of my own knowledge are true and that all statements made on information are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

  
James B. Myers, Jr.  
Reg. No. 42,021  
Woodard, Emhardt, Naughton, Moriarty & McNett  
Bank One Center Tower  
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Matter No. 4002-2804

Initials: KAG/ade SJK/ot

PLEASE RETURN THIS CARD

(X) Patent ( ) Trademark  
( ) Copyright

Serial No. Not yet assigned

Applicant: JC997 U.S. PTO

09/923117



Receipt of the attached is  
acknowledged.

EL683236175115

- (X) Application CONTINUATION  
(X) Check for \$ \_\_\_\_\_  
( ) \_\_\_\_\_ sheets of drawing(s)  
( ) Small Entity Declaration  
(X) Declaration & Power of Atty. Unsigned  
( ) Assignment  
( ) Amendment  
( ) Req. for Extension of Time  
( ) Specimens  
( ) Information Disclosure Statement  
(X) Postcard  
(X) Transmittal Sheet  
( ) \_\_\_\_\_

EXHIBIT  
4002-2804  
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Moriarty & McNett

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Matter No./Case No. 4002-2804 (PG. 12) Initials/Date: KAG/JBM/lg  
5/1/02

(x) Patent ( ) Trademark ( ) Copyright ( ) Application # \_\_\_\_\_ of pages  
( ) Check for \$ \_\_\_\_\_  
Serial No. 09/923,117 ( ) # \_\_\_\_\_ sheets of drawings  
( ) Declaration & Power of Attorney  
Applicant McKay ( ) Assignment & Recordation cover sheet  
Osteogenic Paste Compositions ( ) Information Disclosure Statement  
and Uses Thereof ( ) Transmittal Form /PTO Form \_\_\_\_\_  
(x) This return postcard ( ) Fee Transmittal /PTO Form \_\_\_\_\_  
(x) Status Request ( ) Amendment/ Response to Office Action  
( ) \_\_\_\_\_ ( ) Request for Extension of Time  
( ) \_\_\_\_\_ ( ) Statement of Use  
( ) \_\_\_\_\_ ( ) Specimen(s) # \_\_\_\_\_

MAY 13 2002

RECEIPT OF THE ATTACHED IS HEREBY ACKNOWLEDGED